IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. App. No. 7960 of 2005
IN
Civil Contempt Petition No. 52 of 2005

Sant Kumar Shukla
S/o Sri Harnam Bahadur Shukla
R/o Village- Adarsh Colony
Rudrapur, Post- Rudrapur
District- Udham Singh Nagar
Presently Posted at F.C.I. Depot
Pithoragarh, District Pithoragarh **…..Petitioner**

Vs.

V.K. Mehrotra
Managing Director
Food Corporation of India
Head Quarter 16-20, Bara Khamba Lane
New Delhi. **….Respondent**

Shri S.K. Mandal, Advocate for the petitioner.
Shri Mohan Chandra Pande, Advocate for the respondent.

Hon'ble Prafulla C. Pant, J.

This is application for early hearing of Contempt Petition No. 51 of 2005, passed in Special Appeal No. 21 of 2004.

Heard learned counsel for the parties on contempt

Petition. The operative portion of the order dated 10.08.2004 passed in spl. App. No. 21 of 2004 of which disobedience has been complained, reads as under:-

"We therefore partly allow the appeal and direct the appellant/petitioner to join his duties at Pithoragarh. He shall after joining his duties at Pithoragarh within 7 days of joining, make representation to the Department we permit him to raise the question of mid-term transfer and the nature of the cadre of the transfer, being ex-cadre and permissibility of it. These are only two questions on which he shall make representation in the light of the available Rules. The representation, if so received by the respondent No. 3, he shall decide that representation within three months from the receipt thereof and intimate the result to the petitioner.

However, as condition precedent, the petitioner must first report to the Pithoragarh to join on the transferred post and continue to serve the department in the said post. It is made clear for that purpose petitioner shall not apply for leave and it is only after joining and commencement of his service that he shall be allowed to make representation.

It is reported that the petitioner has not been paid his salary. The department shall decide the question of the salary also in the light of the available rules."

In response to the notices issued by this Court, a counter affidavit has been filed by the respondents stating that the order of the court has been complied with. In Para-13 of the Counter affidavit, it has been stated that the representation made by the petitioner was disposed of within time. In para-20 of the counter affidavit, it has been stated that the petitioner is getting his salary in the same pay scale as he was drawing during his posting at Rudrapur. Copy of the order dated 09.06.2005, which is a speaking order, passed by the respondent is annexed with the counter affidavit, showing disposal of the representation of the petitioner.

In the circumstances, there is no willful disobedience on the part of the respondent. The contempt petition is dismissed. Notices are discharged.

(Prafulla C. Pant, J.)

Dt: 30.09.2005
Sweta